

### **REMARKS**

This responds to the Office Action dated August 22, 2005. No claims are amended, added or canceled herein. Thus, claims 14-46 remain pending in this application. Of these pending claims, claims 18-48 currently stand withdrawn, and claims 14-17 current are being examined..

#### **§102 Rejection of the Claims**

Claims 14-16 were rejected under 35 U.S.C. § 102(e) as being anticipated by Krig et al. (U.S. Patent No. 5,978,707). Applicant respectfully traverses for at least the following reasons.

Independent claim 14 recites a programmer for a user to program a pulse generator to detect a clinical rhythm and selectively apply therapy for the detected clinical rhythm, comprising a first module and a second module. As recited in the claim, both the first and second modules receive user-provided selections. Thus, appropriate enhancements can be programmed by a process of selection (e.g. *Specification* at page 5 line 14 lines 7-19).

As further recited in claim 14, the first module receives a user-provided selection of a clinical rhythm. The clinical rhythm is associated with one or more available detection enhancements that are made available based on the selected clinical rhythm for selection by the user to add specificity for determining when to deliver shock therapy for the selected clinical rhythm. The first module is preprogrammed to provide a selection of at least one detection enhancement from the one or more available detection enhancements that are associated with the clinical rhythm. The second module receives a user-provided selection to modify the selection of the at least one detection enhancement provided by the preprogrammed first module to at least one other detection enhancement from the one or more available detection enhancements that are associated with the clinical rhythm.

The rejection refers to column 5, line 42 of Krig et al. (5,978,707), and states: “VT-1 and VT are available clinical rhythms for selection, each having detection enhancements, i.e. the lower rate which is programmable within a given range being dependent upon the selected clinical rhythm and adding specificity for determining when to deliver shock therapy for the selected rhythm.” Applicant respectfully disagrees. The lower rate limit is a primary detection criteria, and is not a secondary, detection enhancement. Furthermore, although the cited portion

of Krig indicates that the VF, VT and VT-1 rate zones are programmable, Applicant is unable to find a showing or fair suggestion that these rate zones are programmable using user-provided selections. Additionally, without admitting that the programmable lower rate is an example of a detection enhancement, Applicant is unable to find a showing or a fair suggestion that the lower rate is programmable by selection. In claim 14, however, both the first and second modules receive user-provided selections.

Thus, Applicant respectfully requests withdrawal of the rejection, and reconsideration and allowance of claims 14-16.

§103 Rejection of the Claims

Claim 17 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Krig et al. (U.S. Patent No. 5,978,707). Applicant respectfully traverses.

Claim 17 depends on claim 14, and is believed to be patentable for the reasons provided therewith. Further, Applicant respectfully traverses the official notice. Although windows display systems may be known, it does not necessarily follow that it would have been obvious to provide a first screen that provides a capability to activate the at least one detection enhancement which is seeded with at least one parameter, and a second screen that provides a capability to change the at least one parameter for the at least one detection enhancement, as recited in claim 17. “Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.” §103(c)(1)

Applicant respectfully requests withdrawal of the rejection, and reconsideration and allowance of claim 17.

*Withdrawn Claims*

As provided in Applicant's previous response to the restriction requirement, Applicant believed that independent claim 14 was generic to the species identified by the Examiner. Thus, in accordance with 37 CFR 1.141, Applicant requests consideration of the withdrawn claims upon the allowance of claim 14. Should it be determined that amended claim 14 is not generic, Applicant respectfully requests an opportunity to place the withdrawn claims into the required form.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6960 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22318-1450 on this 14 day of December, 2005.

Name

Signature